

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JAMES G. FREER,

Plaintiff,

v.

Case No. 10-C-6

MARGUERITE M. MOELLER and  
BARBARA B. CRABB,

Defendants.

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**ORDER**

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Plaintiff James Freer, a Wisconsin prisoner, brought a civil rights case under 42 U.S.C. § 1983. The Court screened Freer's complaint, found it frivolous, and dismissed it. Freer filed a notice of appeal, but has also filed two motions with the Court. In the first, he seeks an order enlarging the record on appeal to include the entire case file from his habeas proceedings in the Western District of Wisconsin (Case No. 08-C-135). (Doc. # 46.) In his second motion, he appears to contend that the Court should alter or amend the judgment based on the fact it did not include the contents of his habeas proceedings in the Western District of Wisconsin in the record. (Doc. # 45.)

In dismissing this § 1983 case, the Court cited Judge Crabb's decision dismissing his habeas petition as an unauthorized second or successive petition. *See Freer v. Thurmer*, No. 08-C-135, 2008 WL 2512847 (W.D. Wis. June 20, 2008). The Court did not consider any other document from the docket in his habeas proceedings, and it was free to take judicial notice of Judge Crabb's decision. *See Opoka v. INS*, 94 F.3d 392, 394 (7th Cir. 1996) (it is a "well-settled principle" that judicial notice may be taken of decisions of other courts). Freer is seeking to enlarge the appeal

record to include documents from his habeas case which were not considered at the district court level. An appeal record may not be augmented with such documents. *Borden, Inc. v. FTC*, 495 F.2d 785, 788 (7th Cir. 1974). Accordingly, the motion [Doc # 46] is **DENIED**.

The Court also finds insufficient reason to alter or amend the judgment, so the motion [Doc. # 45] is **DENIED**.

**SO ORDERED** this 31st day of March, 2010.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge